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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,216	04/19/2001	Yoshimasa Kitamura	3008-25	6924

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EXAMINER

LE, HIEU C

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/837,216

Applicant(s)

KITAMURA, YOSHIMASA

Examiner

Hieu c. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) *
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1,2,5, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claims 2-7 refer to claim 1 rejection.

Claim Rejections - 35 U.S.C. § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5,7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker, David et al [W0 9937105].

As to claim 1, Walker discloses a method transmitting information between transmitting terminal and receiving terminal comprising the steps of:

storing in a server on data constituting parts of a sending data be transmitted from said transmitting terminal to said receiving terminal [Fig. 1 shows a server accessed by clients to compose a graphic message (sending

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data) from image component objects (data constituting parts of a sending data) that is stored in a server database, the graphic message is sent from a sending portable phone to a receiving portable phone (p. 3, lines 1-7, p. 5, lines 20-24)

authoring said sending data display unit the transmitting terminal by using the data stored [the sender device under the direction of the user selects and downloading one or more image component objects (p. 3, lines 1-9). The selected image component objects are rendered on the sender's screen by editing and drawing the component objects by the user to generate a graphic objects by the user to generate a graphic message (sending data(p. 4, lines 2-13, p. 5, lines 12-15, lines 20-28));

storing said sending data in said server [the message (sending data) is stored at the server (p. 5 lines 5-7)];

distributing said data stored in said server to said receiving terminal [messages are transmitted via server to the message receiving apparatus (i.e., distributed) (p. 2, lines 20-21)] and

displaying the data distributed on a display unit of the receiving terminal (p. 2, lines 20-21).

wherein said transmission of information between the transmitting terminal and said receiving terminal is conducted using a mobile tool such as a mobile telephone set as at least one terminal of said transmitting terminal and said receiving terminal (p. 4, lines 11-15).

Walker discloses that the server and the mobile apparatus are connected via a communication link (p. 3, lines 5-6).

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Walker does not disclose that the communication link is the Internet.

However, the use of the Internet is obvious in view of a communication link and one of ordinary skill in the art at the time the invention was disclosed would be motivated to use the Internet which is a popular and numerous cluster of different networks connecting different and diverse users and devices across the world.

As to claim 2, refer to claim 1 rejection. Walker discloses a method images constituting a parts of sending images and drawing said sending image on display unit of (p. 4, lines 2-10, p. 5, lines 12-28).

As to claim 3, Walker further discloses wherein the step of drawing said sending image is conducted by calling a plurality of different ones of said images from the Internet server and composing them one another on the display of the transmitting terminal (p. 4, lines 2-13, p. 5, lines 12-28).

As to claim 4, Walker further discloses wherein the step drawing the sending image is conducted with addition to the sending image of character information be transmitted to said receiving terminal (p. 6, lines 4-7, lines 24-27).

As to claim 5, Walker further discloses wherein the transmission of the information is conducted using a mobile tool such as a mobile telephone set as said transmitting terminal and said receiving terminal (p. 4, lines 13-15).

As to claim 7, Walker further discloses wherein the step of displaying said sending image on said display unit of said receiving terminal includes a step draw a replying image by calling said images from said Internet server and modifying a part of said sending image (p. 4, lines 2-10, p. 5, lines 20-28).

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Allowable Subject Matter

5. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu Le whose telephone number is (703) 306-3101. The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey, can be reached on (703) 305-9705. The fax phone number for this Group is (703) 308-5357.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Hieu Le


JACK B. HARVEY
SUPERVISORY PATENT EXAMINER